

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**IN RE: TFT-LCD (FLAT PANEL) ANTITRUST LITIGATION** No. M 07-1827 SI

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MDL. No. 1827

## This Order Relates to:

## ALL CASES

**ORDER DENYING THE TOSHIBA  
ENTITIES' MOTION TO STAY  
DISCOVERY PENDING RESOLUTION  
OF PETITION FOR WRIT OF  
MANDAMUS**

The Toshiba entities have filed a motion to stay discovery pending the Ninth Circuit's resolution of the Toshiba entities' petition for writ of mandamus. Plaintiffs oppose the motion.

The Court has reviewed the parties' papers and DENIES the motion. (Docket No. 735). The Court finds that Toshiba has not demonstrated a likelihood of success on the merits because mandamus is generally not available to challenge discretionary decisions such as the Court's November 19, 2008 order denying Toshiba's motion for a protective order. *See Kmart Corp. v. Aronds*, 123 F.3d 297 (5th Cir. 1997).

The Toshiba entities have also not demonstrated that the balance of hardships tips sharply in its favor. Toshiba asserts that discovery will be extremely burdensome. However, as plaintiffs note, the burden associated with certain categories of documents – such as those already produced by Toshiba to the Department of Justice – should be minimal. All other defendants have agreed to the discovery schedule set forth in the May 2008 order, and staying discovery as to Toshiba will disrupt the efficient administration of this complex multidistrict litigation.

## IT IS SO ORDERED.

Dated: December 5, 2008

*Susan Illston*  
SUSAN ILLSTON  
United States District Judge